

House File 600

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1 4 AN ACT
1 5 REGULATING ORGANIC AGRICULTURAL PRODUCTS, PROVIDING FOR FEES
1 6 AND PENALTIES, AND PROVIDING AN EFFECTIVE DATE.
1 7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
1 8
1 9 Section 1. Section 190C.1, Code 2003, is amended by
1 10 striking the section and inserting in lieu thereof the
1 11 following:
1 12 190C.1 DEFINITIONS.
1 13 As used in this chapter, unless the context otherwise
1 14 requires:
1 15 1. "Agricultural product" means any agricultural commodity
1 16 or product, whether raw or processed, including any commodity
1 17 or product derived from livestock, that is marketed in this
1 18 state for human or livestock consumption.
1 19 2. "Council" means the organic advisory council
1 20 established pursuant to section 190C.2.
1 21 3. "Crop" means a plant or part of a plant intended to be
1 22 marketed as an agricultural product or fed to livestock.
1 23 4. "Department" means the department of agriculture and
1 24 land stewardship.
1 25 5. "Handler" means a person engaged in the business of
1 26 handling agricultural products, including producers who handle
1 27 crops or livestock of their own production, except such term
1 28 shall not include final retailers of agricultural products
1 29 that do not process agricultural products.
1 30 6. "Label" means a display of written, printed, or graphic
1 31 material on the immediate container of an agricultural product
1 32 or any such material affixed to any agricultural product or
1 33 affixed to a bulk container containing an agricultural
1 34 product, except for package liners or a display of written,
1 35 printed, or graphic material which contains only information
2 1 about the weight of the product.
2 2 7. "Livestock" means any cattle, sheep, goats, swine,
2 3 poultry, or equine animals used for food or in the production
2 4 of food, fiber, feed, or other agricultural-based consumer
2 5 products; wild or domesticated game; or other nonplant life,
2 6 except such term shall not include aquatic animals or bees for
2 7 the production of food, fiber, feed, or other agricultural=
2 8 based consumer products.
2 9 8. "National organic program" means the program
2 10 administered by the United States department of agriculture
2 11 pursuant to 7 C.F.R. pt. 205, which implements the federal
2 12 Organic Food Production Act of 1990, 7 U.S.C. } 6501 et seq.
2 13 9. "Organic" means a labeling term that refers to an
2 14 agricultural product produced in accordance with this chapter.
2 15 10. "Organic agricultural product" means an agricultural
2 16 product that is certified or otherwise qualifies as organic in
2 17 accordance with the provisions of this chapter as they existed
2 18 on and after May 20, 1998.
2 19 11. "Processing" means cooling, baking, curing, heating,
2 20 drying, mixing, grinding, churning, separating, extracting,
2 21 slaughtering, cutting, fermenting, distilling, eviscerating,
2 22 preserving, dehydrating, freezing, chilling, or otherwise
2 23 manufacturing, and includes the packaging, canning, jarring,
2 24 or otherwise enclosing in a food container.
2 25 12. "Processor" means a person engaged in the business of
2 26 processing.
2 27 13. "Producer" means a person who engages in the business
2 28 of growing or producing food, fiber, feed, or other
2 29 agricultural-based consumer products.
2 30 14. "Regional organic association" means a corporation
2 31 authorized pursuant to section 190C.6.
2 32 15. "Retailer" means a person who sells agricultural
2 33 products on a retail basis. "Retailer" includes a food
2 34 establishment as defined in section 137F.1. "Retailer" also
2 35 includes a restaurant, delicatessen, bakery, grocery store, or
3 1 any retail outlet with an in-store restaurant, delicatessen,
3 2 bakery, salad bar, or other eat-in or carry-out service of
3 3 processed or prepared raw and ready-to-eat food.
3 4 16. "Secretary" means the secretary of agriculture who is
3 5 the director of the department of agriculture and land

3 6 stewardship.

3 7 Sec. 2. NEW SECTION. 190C.1A OTHER DEFINITIONS.

3 8 For purposes of this chapter, words and phrases that are
3 9 not defined in section 190C.1 shall have the same meanings as
3 10 provided in 7 C.F.R. pt. 205.

3 11 Sec. 3. NEW SECTION. 190C.1B GENERAL AUTHORITY.

3 12 Any provision in this chapter referring generally to
3 13 compliance with the requirements of this chapter also includes
3 14 compliance with requirements in rules adopted by the
3 15 department pursuant to this chapter, orders issued by the
3 16 department as authorized under this chapter, and the terms and
3 17 conditions applicable to any certification made pursuant to
3 18 this chapter.

3 19 Sec. 4. Section 190C.2, subsection 1, Code 2003, is
3 20 amended to read as follows:

3 21 1. An organic ~~standards board~~ advisory council is
3 22 established within the department. ~~The powers of the board~~
~~3 23 are vested in and shall be exercised by council~~ is composed of
3 24 eleven members appointed by the governor and secretary, as
3 25 provided in this section. The governor and secretary shall
3 26 accept nominations from persons or organizations representing
3 27 persons who serve on the ~~board~~ council, as determined by the
3 28 governor and secretary making appointments under this section.

3 29 Sec. 5. Section 190C.2, subsection 2, unnumbered paragraph
3 30 1, Code 2003, is amended to read as follows:

3 31 The members shall serve staggered terms of four years
3 32 beginning and ending as provided in section 69.19. ~~However,~~
~~3 33 the governor and secretary shall cooperate to appoint initial~~
~~3 34 members to serve for less than four years to ensure members~~
~~3 35 serve staggered terms.~~ Members appointed under this section
4 1 shall be persons knowledgeable regarding the production,
4 2 handling, processing, and retailing of organic agricultural
4 3 products. The members of the ~~board~~ council shall be appointed
4 4 as follows:

4 5 Sec. 6. Section 190C.2, subsections 3, 4, 6, and 7, Code
4 6 2003, are amended to read as follows:

4 7 3. A vacancy on the ~~board~~ council shall be filled in the
4 8 same manner as an original appointment. A person appointed to
4 9 fill a vacancy shall serve only for the unexpired portion of
4 10 the term. A member is eligible for reappointment. The
4 11 governor may remove a member appointed by the governor and the
4 12 secretary may remove a member appointed by the secretary, if
4 13 the removal is based on the member's misfeasance, malfeasance,
4 14 or willful neglect of duty or other just cause, after notice
4 15 and hearing, unless the notice and hearing is expressly waived
4 16 in writing.

4 17 4. Six members of the ~~board~~ council constitute a quorum
4 18 and the affirmative vote of a majority of the members present
4 19 is necessary for any substantive action to be taken by the
4 20 ~~board~~ council. The majority shall not include any member who
4 21 has a conflict of interest and a statement by a member that
4 22 the member has a conflict of interest is conclusive for this
4 23 purpose. A vacancy in the membership does not impair the
4 24 right of a quorum to exercise all rights and perform all
4 25 duties of the ~~board~~ council.

4 26 6. If a member has an interest, either direct or indirect,
4 27 in a contract to which the ~~board~~ council is or is to be a
4 28 party, the member shall disclose the interest to the ~~board~~
4 29 council in writing. The writing stating the conflict shall be
4 30 set forth in the minutes of the ~~board~~ council. The member
4 31 having the interest shall not participate in any action by the
4 32 ~~board~~ council relating to the contract.

4 33 7. The ~~board~~ council shall meet on a regular basis and at
4 34 the call of the chairperson or upon the written request to the
4 35 chairperson of two or more members. The department shall
5 1 provide administrative support to the ~~board~~ council.

5 2 Sec. 7. NEW SECTION. 190C.2A DUTIES OF THE COUNCIL.

5 3 The organic advisory council shall assist the department in
5 4 implementing and administering the provisions of this chapter
5 5 as requested by the department. Upon request by the
5 6 department, the council shall do all of the following:

5 7 1. Develop rules, policies, and procedures required to
5 8 implement and administer this chapter.

5 9 2. Collect information required by the department in
5 10 implementing and administering this chapter.

5 11 3. Interpret the requirements of this chapter, including
5 12 rules adopted and orders issued pursuant to this chapter, and
5 13 requirements of the national organic program.

5 14 4. Establish and change fees as provided in section
5 15 190C.5.

5 16 5. Provide advice regarding the most effective manner to

5 17 use services provided by regional organic associations as
5 18 provided in section 190C.6.

5 19 6. Provide information and expert opinions relating to
5 20 organic agricultural products to the department.

5 21 7. Provide information relating to organic agricultural
5 22 products to interested persons.

5 23 8. Promote organic agricultural products to consumers.

5 24 Sec. 8. NEW SECTION. 190C.2B ESTABLISHMENT AND
5 25 IMPLEMENTATION OF THIS CHAPTER.

5 26 1. The department shall implement and administer the
5 27 provisions of this chapter for agricultural products that have
5 28 been produced and handled within this state using organic
5 29 methods as provided in this chapter. The department may
5 30 consult with the council in implementing and administering
5 31 this chapter. The department may certify agricultural
5 32 products that have been produced and handled outside this
5 33 state using an organic method as provided in this chapter.

5 34 2. The department may establish a state organic program as
5 35 provided in 7 U.S.C. } 6501 et seq. and 7 C.F.R. pt. 205. The
6 1 secretary may apply for any approval or accreditation or
6 2 execute any agreement required under the national organic
6 3 program in order to implement, administer, and enforce this
6 4 chapter.

6 5 3. Unless prohibited by the national organic program, the
6 6 attorney general may be joined as a party authorized to
6 7 enforce the provisions of this chapter.

6 8 4. All provisions of this chapter shall be deemed in
6 9 compliance with the national organic program, unless expressly
6 10 provided otherwise by the United States department of
6 11 agriculture.

6 12 Sec. 9. Section 190C.3, Code 2003, is amended by striking
6 13 the section and inserting in lieu thereof the following:

6 14 190C.3 DUTIES AND POWERS OF THE DEPARTMENT.

6 15 In implementing the provisions of this chapter consistent
6 16 with the national organic program, the department shall
6 17 provide for the administration and enforcement of this
6 18 chapter, including by adopting rules and issuing orders
6 19 pursuant to chapter 17A. The department may adopt any part of
6 20 the national organic program by reference.

6 21 1. The department shall be a state certifying agent and
6 22 the department shall be the certifying agent's operation as
6 23 provided in the national organic program.

6 24 2. The department may request assistance from the council
6 25 as provided in section 190C.2A or from one or more regional
6 26 organic associations as provided in section 190C.6.

6 27 3. a. The secretary may serve as the state organic
6 28 program's governing state official. However, no other person
6 29 shall serve in that position without approval by the
6 30 secretary.

6 31 b. The secretary may designate a person within the
6 32 department to act on the secretary's behalf in carrying out
6 33 the duties of the state organic program's governing state
6 34 official.

6 35 4. The department may assume enforcement obligations under
7 1 the national organic program in this state for the
7 2 requirements of this chapter. The department shall provide
7 3 for on-site inspections. The department and the attorney
7 4 general may coordinate the enforcement activities as provided
7 5 in section 190C.21.

7 6 Sec. 10. Section 190C.5, Code 2003, is amended to read as
7 7 follows:

7 8 190C.5 STATE FEES == DEPOSIT INTO GENERAL FUND OF THE
7 9 STATE.

7 10 1. a. The board department acting as a state certifying
7 11 agent shall establish a schedule of state fees under this
~~7 12 chapter by rule adopted by the department for persons required~~
~~7 13 to be certified as producers, handlers, and processors of~~
~~7 14 agricultural products labeled, sold, or advertised as organic~~
~~7 15 as provided in section 190C.13. The fees shall be charged to~~
~~7 16 persons who are certified under this chapter, including~~
~~7 17 production operations and handling operations, in a manner~~
~~7 18 that is consistent with the national organic program.~~

7 19 2. ~~Beginning on July 1, 2000, the board~~ The department
7 20 shall establish the rate of fees based on an estimate of the
7 21 amount of revenues from the fees required by the department to
7 22 administer and enforce this chapter.

7 23 ~~b. The department shall annually review the estimate and~~
~~7 24 recommend a may change in the rate of fees to the board if~~
~~7 25 the. The fees must be adjusted in order to comply with this~~
7 26 subsection. ~~The board may approve an adjustment in the fees~~
~~7 27 by rule adopted by the department at any time in order to~~

~~7 28 comply with this subsection.~~

7 29 2. a. The department acting as a state certifying agent
7 30 may charge additional fees for carrying out the duties of that
7 31 position to the extent that the fees are consistent with the
7 32 national organic program.

7 33 b. The secretary acting as the state organic program's
7 34 governing state official may charge fees for carrying out the
7 35 duties of that position to the extent consistent with the
8 1 national organic program.

8 2 3. The department shall collect state fees under this
8 3 chapter ~~as provided by the board~~, which shall be deposited
8 4 into the general fund of the state.

8 5 Sec. 11. Section 190C.6, Code 2003, is amended to read as
8 6 follows:

8 7 190C.6 REGIONAL ORGANIC ASSOCIATIONS.

8 8 1. Regional organic associations may be established as
8 9 provided in this section. A regional organic association must
8 10 be organized as a corporation under chapter 504A which has
8 11 certified members, elects its own officers and directors, and
8 12 is independent from the department.

8 13 2. The department, upon approval by the board, may
8 14 authorize a regional organic association to assist the board
8 15 department in certifying producers, handlers, and processors
~~8 16 of agricultural products under acting as a state certifying~~
8 17 ~~agent pursuant to section 190C.13~~ 190C.3. The regional
8 18 organic association must be registered with the department.

8 19 ~~The~~ Upon request by the department, a registered regional
8 20 organic association, upon approval of the board, may
~~8 21 administer the provisions of section 190C.13 by doing~~ may do
8 22 all of the following:

8 23 ~~1. a. Reviewing~~ Review applications and ~~providing~~ provide
8 24 applicants with technical assistance in completing
8 25 applications. The department may authorize a regional organic
8 26 association to process applications, including collecting and
8 27 forwarding applications to the department.

8 28 ~~2. b. Preparing~~ Prepare a summary of an application,
8 29 including materials accompanying the application, for review
8 30 by the department ~~and the organic standards board~~. A regional
8 31 organic association may include a recommendation for approval,
8 32 modification, or disapproval of an application.

8 33 Sec. 12. Section 190C.21, Code 2003, is amended to read as
8 34 follows:

8 35 190C.21 GENERAL ENFORCEMENT.

9 1 1. The department and the attorney general acting as a
9 2 state certifying agent and on behalf of the secretary who
9 3 elects to act as the state organic program's governing state
9 4 official shall enforce this chapter.

9 5 2. The To the extent authorized by the national organic
9 6 program, the attorney general shall assist the department in
9 7 enforcing this chapter. The department or the attorney
9 8 general may commence legal proceedings in district court to
9 9 enforce a provision of this chapter. If the attorney general
9 10 assists the department under this section, the attorney
9 11 general may commence the legal proceedings at the request of
9 12 the department or upon the attorney general's own initiative
9 13 in order to enforce this chapter, including rules adopted and
~~9 14 orders issued by the department pursuant to this chapter.~~

9 15 3. This chapter does not require the attorney general or
~~9 16 the department or attorney general~~ to institute a proceeding
9 17 for a minor violation, if the department or attorney general
9 18 ~~or department~~ concludes that the public interest will be best
9 19 served by a suitable notice of warning in writing.

9 20 Sec. 13. Section 190C.22, Code 2003, is amended to read as
9 21 follows:

9 22 190C.22 INVESTIGATIONS, COMPLAINTS, INSPECTIONS, AND
9 23 EXAMINATIONS.

9 24 1. The In enforcing the provisions of this chapter
9 25 consistent with the national organic program, the department
9 26 may conduct an investigation to determine if a person is
9 27 complying with the requirements of this chapter. To the
9 28 extent consistent with the national organic program, all of
9 29 the following shall apply:

9 30 2. 1. Any The department may receive a complaint from any
9 31 person may file a complaint with the department regarding a
9 32 violation of this chapter. The department shall adopt
9 33 procedures for persons filing complaints. The department
9 34 shall establish procedures for processing complaints including
9 35 requiring minimum information to determine the verifiability
10 1 of a complaint.

10 2 3. 2. The department may conduct inspections at times and
10 3 places and to an extent that the department determines

10 4 necessary in order to conclude whether ~~an agricultural product~~
10 5 ~~is being produced, handled, processed, or sold in accordance~~
10 6 ~~with the provisions there is a violation of this chapter. The~~
10 7 ~~department may inspect records required to be maintained~~
10 8 ~~pursuant to section 190C.15. The department may enter upon~~
10 9 any public or private premises during regular business hours
10 10 in a manner consistent with the laws of this state and the
10 11 United States, including Article I, section 8, of the
10 12 Constitution of the State of Iowa, or the fourth amendment to
10 13 the Constitution of the United States for purposes of carrying
10 14 out an inspection.

10 15 ~~4- 3.~~ The department may conduct examinations of
10 16 agricultural products in order to determine if the
10 17 ~~agricultural products are produced, handled, processed, and~~
10 18 ~~sold in compliance with this chapter. Unless the national~~
10 19 ~~organic program otherwise requires, all of the following shall~~
10 20 ~~apply:~~

10 21 a. The methods for examination shall be the official
10 22 methods ~~of adopted by~~ the association of official agricultural
10 23 chemists in all cases where methods have been adopted by the
10 24 association.

10 25 b. A sworn statement by the state chemist or the state
10 26 chemist's deputy stating the results of an analysis of a
10 27 sample taken from a lot of agricultural products shall
10 28 constitute prima facie evidence of the correctness of the
10 29 analysis of that lot in ~~an administrative hearing a contested~~
10 30 ~~case proceeding or court of this state proceeding.~~

10 31 Sec. 14. Section 190C.23, Code 2003, is amended by
10 32 striking the section and inserting in lieu thereof the
10 33 following:

10 34 190C.23 DISCIPLINARY ACTION.

10 35 1. The department may take disciplinary action against a
11 1 person who is certified pursuant to this chapter for
11 2 noncompliance with a provision of this chapter or a willful
11 3 violation of this chapter. The procedures of the disciplinary
11 4 action shall be consistent with the national organic program.
11 5 The disciplinary action shall proceed as provided in chapter
11 6 17A unless contrary to the national organic program. The
11 7 department may do any of the following:

11 8 a. Issue a letter of warning or reprimand.

11 9 b. Suspend or revoke the person's certification.

11 10 2. Any other disciplinary action provided in the national
11 11 organic program shall be implemented by the secretary acting
11 12 as the state organic program's governing state official.

11 13 Sec. 15. Section 190C.24, subsection 1, Code 2003, is
11 14 amended to read as follows:

11 15 ~~1. Unless prohibited by the national organic program,~~
11 16 ~~the department may issue a stop order to a person who sells,~~
11 17 ~~labels, or represents an agricultural product as organic in~~
11 18 ~~violation of this chapter, including a rule adopted or an~~
11 19 ~~order issued under this chapter, the.~~

11 20 1. ~~The~~ department may issue a written order to stop the
11 21 sale of the agricultural product by a person in control of the
11 22 agricultural product. The person named in the order shall not
11 23 sell, label, or represent the ~~item~~ agricultural product as
11 24 ~~organic~~ until the department determines that ~~the sale of the~~
11 25 agricultural product is in compliance with this chapter.

11 26 Sec. 16. Section 190C.24, subsection 4, Code 2003, is
11 27 amended to read as follows:

11 28 4. The department shall release the agricultural product
11 29 when the department issues a release order upon satisfaction
11 30 that legal requirements compelling the issuance of the stop
11 31 sale order are satisfied. ~~The board must approve a delay in~~
11 32 ~~issuing a release order within three months after requiring~~
11 33 ~~that the agricultural product be held. If the person is found~~
11 34 to have violated this chapter, the person shall pay all
11 35 expenses incurred by the department in connection with the
12 1 agricultural product's removal.

12 2 Sec. 17. Section 190C.25, Code 2003, is amended to read as
12 3 follows:

12 4 190C.25 INJUNCTIONS.

12 5 ~~The attorney general, Unless prohibited by the national~~
12 6 ~~organic program, the department, or the attorney general, an~~
12 7 individual, a private organization or association, a county,
12 8 or a city may bring an action in district court to restrain a
12 9 producer, ~~processor,~~ handler, or retailer from selling an
12 10 agricultural product by false or misleading advertising
12 11 claiming that the agricultural product is organic. A
12 12 petitioner shall not be required to allege facts necessary to
12 13 show, or tending to show, a lack of adequate remedy at law, or
12 14 that irreparable damage or loss will result if the action is

12 15 brought at law or that unique or special circumstances exist.
12 16 Sec. 18. Section 190C.26, Code 2003, is amended to read as
12 17 follows:
12 18 190C.26 SELLING, LABELING, OR REPRESENTING AGRICULTURAL
12 19 PRODUCTS AS ORGANIC == PENALTIES.
12 20 A person ~~who violates this chapter is~~ shall not knowingly
12 21 ~~sell, label, or represent an agricultural product as organic,~~
12 22 ~~except in accordance with this chapter. A person who violates~~
12 23 ~~this section shall be~~ subject to a civil penalty of not more
12 24 than ~~five ten~~ thousand dollars. Civil penalties shall be
12 25 assessed by the district court in an action initiated by the
12 26 ~~department or attorney general as provided in section 190C.21.~~
12 27 ~~Each~~ Unless prohibited by the national organic program, each
12 28 day that the ~~offense violation~~ continues constitutes a
12 29 separate ~~offense violation~~. Civil penalties collected under
12 30 this section shall be deposited in the general fund of the
12 31 state.
12 32 Sec. 19. DIRECTIONS TO CODE EDITOR. The Code editor is
12 33 directed to reorganize and renumber the provisions of chapter
12 34 190C to enhance its readability. The Code editor may
12 35 reorganize the provisions in the 2003 Code Supplement or the
13 1 2005 Code. Nothing in this section limits the Code editor's
13 2 authority under section 2B.13.
13 3 Sec. 20. Sections 190C.4, 190C.12, 190C.13, 190C.14, and
13 4 190C.15, Code 2003, are repealed.
13 5 Sec. 21. EFFECTIVE DATE. This Act, being deemed of
13 6 immediate importance, takes effect upon enactment.
13 7
13 8
13 9
13 10 _____
13 11 CHRISTOPHER C. RANTS
13 12 Speaker of the House
13 13
13 14 _____
13 15 MARY E. KRAMER
13 16 President of the Senate
13 17
13 18 I hereby certify that this bill originated in the House and
13 19 is known as House File 600, Eightieth General Assembly.
13 20
13 21
13 22 _____
13 23 MARGARET THOMSON
13 24 Chief Clerk of the House
13 25 Approved _____, 2003
13 26
13 27
13 28 _____
13 29 THOMAS J. VILSACK
13 30 Governor